

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR AND ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE SERVICES**  
**Before the Commissioner of Financial and Insurance Services**

**In the matter of**

**XXXXX**

**Petitioner**

**File No. 86564-001**

**v**

**Blue Care Network of Michigan**  
**Respondent**

**Issued and entered**  
**this 14<sup>th</sup> day of January 2008**  
**by Ken Ross**  
**Acting Commissioner**

**ORDER**

**I**

**PROCEDURAL BACKGROUND**

On December 4, 2007, XXXXX (Petitioner) filed a request for external review with the Commissioner of the Office of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On December 11, 2007, after a preliminary review of the material submitted, the Commissioner accepted the request.

The issue in this external review can be decided by contractual analysis. The contract involved here is the Respondent's "BCN10" certificate of coverage (the Certificate). The Commissioner reviews contractual issues under MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

**II**

**FACTUAL BACKGROUND**

The Petitioner is a Blue Care Network (BCN) member who received maternity care from XXXXX, a midwife who works for XXXXX in XXXXX, XXXXX.

The care included a home birth on March 23, XXXX. Ms. XXXXX and XXXXX are not part of the BCN network.

Following the birth, the Petitioner requested authorization and coverage for prenatal care and home birth. BCN denied the request. The Petitioner appealed but BCN maintained its denial. The Petitioner exhausted BCN's internal grievance process and BCN issued its final adverse determination letter dated October 19, 2007.

### **III ISSUE**

Did BCN properly deny the Petitioner authorization and coverage for Petitioner's midwife care and home birth?

### **IV ANALYSIS**

#### **Petitioner's Argument**

In her request for external review, Petitioner wrote that she is "asking for reimbursement for prenatal/birth services outside current BCN providers because BCN did not have a provider that could provide midwifery services outside a hospital setting." Petitioner is seeking \$2,500.00 to cover those services. Petitioner feels this is a fair amount because using the midwife services saved BCN thousands of dollars compared to a hospital birth.

#### **Respondent BCN's Argument**

In its final adverse determination, BCN denied Petitioner's request for coverage for the out-of-network services because "your benefits do not cover services provided by a lay-midwife and also home births." In making this decision, BCN relied on the following provisions of its certificate:

#### **2.01 Unauthorized and Out-of-Plan Services**

Except for emergency care as specified in Section 1.05 of this booklet, health, medical and hospital services listed in this Certificate are covered **only** if they are:

- provided by a BCN-affiliated provider.
- preauthorized by BCN.

Any other services will not be paid for by BCN either to the provider or to the member.

### **Section 2.13 Elective Procedures**

The following procedures are not covered:

\* \* \*

- Services provided by a lay-midwife and home births

BCN argues that, since Petitioner's care was not pre-authorized and was provided by a lay midwife, the services are not covered and its denial was appropriate and consistent with the terms of its Certificate.

### **Commissioner's Review**

The Commissioner carefully reviewed the arguments and documents presented by the parties in this case. The focus of this analysis is whether BCN is responsible for midwife services under the terms of BCN's certificate.

Section 3406r of the Michigan Insurance Code requires Respondent to offer maternity care performed by a nurse midwife. That statute defines a nurse midwife as:

an individual licensed as a registered professional nurse under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, who has been issued a specialty certification in the practice of nurse midwifery by the Michigan board of nursing under section 17210 of the public health code, 1978 PA 368, MCL 333.17210.

Respondent does offer nurse midwife coverage when the nurse midwife meets the requirements of its policy titled "Credentialing and Recredentialing of Non Physician Practitioners" which includes the following requirements for certified nurse midwives:

### **3.2 Certified Nurse Midwives**

3.2.1 Licensure by the State of Michigan as a registered nurse with nurse midwife specialty certification

3.2.2 National certification as administered by the American College of Nurse Midwives within one year of affiliation. Maintain certification in accordance with the ACNM requirements.

3.2.3 Privileges with a hospital and/or hospital-affiliated, state licensed, accredited birthing center.

3.2.4 An interdependent relationship established for medical consultation/collaboration or referral to an obstetrician/gynecologist or qualified physician, if OB-GYN is not available. The CNM and other qualified physician(s) must also establish a formal consultative arrangement with an OB-GYN. Physicians must have OB/GYN privileges at the hospital or hospital-affiliated birthing center where CNM practices.

In this case, the nurse midwife has not been shown to possess credentials needed to have her services covered under the petitioner's certificate of coverage. In addition, the services were not pre-approved by the Respondent as the Certificate requires.

## **V ORDER**

The Commissioner upholds BCN's October 19, 2007, final adverse determination. BCN properly denied coverage for the Petitioner's midwife services.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.